

Kevin H. Sun, Counsel (SBN 276539)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Fax: (213) 576-6917
Email: Kevin.Sun@dre.ca.gov
Attorney for Complainant

FILED

SEP 16 2024

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-05837 SD
)	
LEADINGHAM REALTY & ASSOCIATES)	<u>ACCUSATION</u>
INC, and ANDREW D ATCHLEY, individually)	
and as designated officer of Leadingham Realty &)	
Associates Inc,)	
)	
Respondent(s).)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against LEADINGHAM REALTY & ASSOCIATES INC and ANDREW D ATCHLEY (collectively "Respondents") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

///

ACCUSATION

1 LICENSE HISTORY

2 3.

3 (LEADINGHAM REALTY & ASSOCIATES INC)

4 (a) Respondent LEADINGHAM REALTY & ASSOCIATES INC ("LRAI") is
5 presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of
6 the California Business and Professions Code, as a real estate corporation ("REC"), Department
7 license ID 00531449.

8 (b) The Department originally issued LRAI's REC license on or about January
9 14, 1977. LRAI's REC license is scheduled to expire on March 22, 2025, unless renewed.

10 (c) According to the Department's records, Respondent maintains no authorized
11 fictitious business name.

12 (d) According to the Department's records to date, Respondent's main office
13 address is PO Box 1027, Imperial Beach, CA 91933.

14 (e) According to the Department's records to date, Respondent employs
15 approximately 1 salesperson under its real estate license.

16 4.

17 (ANDREW D ATCHLEY)

18 (a) Respondent ANDREW D ATCHLEY ("ATCHLEY") is presently licensed
19 and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California
20 Business and Professions Code, as a real estate broker ("REB"), Department license ID
21 01085559.

22 (b) The Department originally issued ATCHLEY's REB license on or about
23 March 12, 1993. ATCHLEY's license is scheduled to expire on March 11, 2025, unless
24 renewed.

25 (c) ATCHLEY was, and is currently, the designated officer for LRAI since
26 March 23, 2021.

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

2

3
4
5
6
7

8

9

10
11
12
13
14
15
16
17

18

19
20
21
22
23
24
25
26

27

Bank Account 1 ("BA 1")

Bank: Bank of America
Account Name: Leadingham Realty & Associates Inc
Account Number: xxxxxxxx1200
Signatories: Andrew D. Atchley
Signatures Required: One
Purpose: BA 1 was maintained to handle trust funds in the property management activities for multiple beneficiaries. Trust funds were transferred from BA 1 to BA 2 from February 2023 to May 2023.

Bank Account 2 ("BA 2")

Bank: Bank of America
Account Name: Leadingham Realty & Associates Inc
Account Number: xxxxxxxx8081
Signatories: Andrew D. Atchley
Signatures Required: One
Purpose: BA 2 was maintained to handle trust funds in the property management activities for multiple beneficiaries. Trust funds were transferred from BA 1 to BA 2 from February 2023 to May 2023.

Violations of the Real Estate Law

8.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA210134, and the exhibits and work papers attached to the audit report:

(a) **Trust Fund Handling For Multiple Beneficiaries (Code section 10145 and Regulations sections 2832.1)**. Based on an examination of BA 1 and BA 2's records, there was a combined minimum trust fund shortage of \$607,731.85 as of July 31, 2023 in violation of Code section 10145 and Regulations sections 2832.1. There is no evidence that Respondents

1 were given written consent from the owners of the trust funds to allow Respondents to reduce
2 the balance of the funds in BA 1 and BA 2 to an amount less than the aggregate trust fund
3 liabilities to all owners of the trust funds.

4 (b) **Trust Fund Handling/ Unauthorized Disbursements/ Conversion of**
5 **Trust Funds (Code sections 10145 and 10176(i)).** Based on an examination of BA 1 and BA
6 2's records, trust funds were disbursed from BA 1 and BA 2 for LRAI's office or other
7 expenses in violation of Code sections 10145 and 10176(i). Said unauthorized disbursements
8 caused part of the minimum trust fund shortage as of July 31, 2023.

9 (c) **Trust Fund Handling/Account Designation (Code section 10145 and**
10 **Regulations section 2832).** Based on an examination of BA 1 and BA 2's records, BA 1 and 2
11 were not set up as trust accounts. BA 1 and BA 2 were used to collect trust funds in connection
12 with LRAI's property management activity.

13 (d) **Trust Fund Records to be Maintained (Code Section 10145 and**
14 **Regulations Sections 2831).** Based on an examination of BA 1's and BA 2's records,
15 Respondents failed to maintain complete and accurate columnar record for all trust funds
16 received and disbursed (control record) in BA 1 and BA 2, which were used for Respondents'
17 property management activities during the audit period in violation of Code Section 10145 and
18 Regulations Sections 2831.

19 (e) **Separate Records for Each Beneficiary or Transaction (Code section**
20 **10145 and Regulations sections 2831.1).** Respondents failed to maintain complete and
21 accurate separate records for each beneficiary or transaction of all trust fund receipts and
22 disbursements for BA 1 and BA 2 in connection with Respondents' property management
23 activities during the audit period in violation of Code section 10145 and Regulations section
24 2831.1.

25 (f) **Trust Account Reconciliation (Code section 10145 and Regulations**
26 **section 2831.2).** Based on an examination of BA 1 and BA2 records, Respondents failed to
27 accurately perform monthly reconciliation for BA 1 and BA 2 during the audit period.

1 (g) Responsibility of Corporate Office in Charge/Broker Supervision (Code
2 sections 10159.2 and 10177(h) and Regulations section 2725). Based on the violations in
3 Paragraphs 8 (a)-(f) above, Respondent ATCHLEY failed to exercise adequate supervision and
4 control over LRAI's property management activities in violation of Code section 10159.2.
5 Respondent ATCHLEY failed to provide established policies, rules, procedures, and systems to
6 review, oversee, inspect, and manage transactions requiring a real estate license and the
7 handling of trust funds in violation of Regulations section 2725.

8 Additional Violations of the Real Estate Law

9 9.

10 The overall conduct of Respondent violates the Real Estate Law and constitutes
11 cause for the suspension or revocation of its real estate license and license rights under the
12 provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful
13 disregard of the Real Estate Law.

14 10.

15 Each of the foregoing violations in Paragraphs 8 (a)-(g) above constitute cause
16 for the suspension or revocation of the real estate license and/or license rights of Respondent
17 under the provisions of Code sections 10177(d), 10177(g), and 10177(h) (as to ATCHLEY).

18 COSTS

19 (AUDIT COSTS)

20 11.

21 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
22 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
23 has found in a final decision, following a disciplinary hearing, that the broker has violated
24 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
25 section.

26 ///

27 ///

(INVESTIGATION AND ENFORCEMENT COSTS)

12.

Section 10106 of the Code, provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

PRAYER

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent LEADINGHAM REALTY & ASSOCIATES INC and ANDREW D ATCHLEY, for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California this 16th day of September, 2024.


Veronica Kilpatrick
Supervising Special Investigator

cc: LEADINGHAM REALTY & ASSOCIATES INC
ANDREW D ATCHLEY
Sacto.
Audits – Isabel Beltran